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7 Attorneys for Plaintiff

8 **UNITED STATES DISTRICT COURT**

9
10 MYRNA I. JOHNSON,)
11 Plaintiff,)
12 vs.)
13 FRED MEYER STORES, INC., and)
14 JAIME SAN MIGUEL,)
15 Defendants)
16 Case No. J-04-008 CV (RRB)
17 _____)

18 **AFFIDAVIT OF COUNSEL IN SUPPORT OF MOTION TO REOPEN DISCOVERY**

19 STATE OF ALASKA) ss.
20 FIRST JUDICIAL DISTRICT)
21

22 MARK CHOATE, being duly sworn upon oath, deposes and states:

23 1. I am counsel for the plaintiff and make this Affidavit in support of the Motion to
24 Reopen Discovery and Other Relief.
25 2. Attachment "A" consists of excerpts from Mrs. Hill's second deposition on
26 October 25, 2006.
27 3. I have raised the issue of reopening discovery with Mr. Dickens, counsel for the
28 defendants for the reasons set forth in this Motion. Mr. Dickens has indicated
that Fred Meyer has produced all of the documents in its file and he believes that
Mrs. Hill, who has testified as to her own investigation in this matter, is simply
incorrect or mistaken. He will not agree to reopen discovery.

1 of 4

Johnson, Myrna v Fred Meyer (J-04-008 CV RRB) [23003].

AFFIDAVIT OF COUNSEL IN SUPPORT OF MOTION TO REOPEN DISCOVERY
J-04-008 CV (RRB)

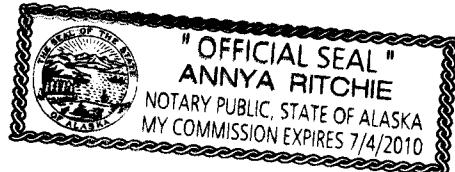
FURTHER, AFFIANT SAYETH NAUGHT.

DATED this 8th day of November, 2006 at Juneau, Alaska.

Mark Choate

SUBSCRIBED AND SWORN TO before me this 8 day of November, 2006.

Notary Public in and for Alaska.
My Commission Expires: 7/4/10



STATE LAW FIRM LLC
424 North Franklin Street
Juneau, Alaska 99801
(907) 586-4490

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Johnson, Myrna v Fred Meyer (J-04-008 CV RRB) [23003]

AFFIDAVIT OF COUNSEL IN SUPPORT OF MOTION TO REOPEN DISCOVERY
J-04-008 CV (RRB)

PROOF OF SERVICE

STATE OF ALASKA, FIRST JUDICIAL DISTRICT AT JUNEAU

I am employed in the City and Borough of Juneau, State of Alaska.. I am over the age of 18 and not a party to the within action. My business address is 424 N. Franklin Street, Juneau, AK 99801.

On November 8, 2006, I served the foregoing document described as AFFIDAVIT OF COUNSEL IN SUPPORT OF MOTION TO REOPEN DISCOVERY, on the interested parties in this action by serving the original true copies, addressed as follows:

James Dickens
Miller Nash LLP
Attorney For: Fred Meyers
4400 Two Union Square
601 Union Street
Seattle, WA 98101-2352
Phone: (206) 622-8484
Fax: (206) 622-7485

Peter Gruenstein
Gruenstein & Hickey
Attorney For: Fred Meyers
500 L Street, Suite 401
Anchorage, AK 99501
Phone: (907) 258-4338
Fax: (907) 258-4350

By mail, I deposited such envelope(s) in the mail at Juneau, Alaska, with postage thereon fully prepaid.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Juneau, Alaska, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

By personal service, I delivered such envelope(s) by hand to the office(s); the court box of the addressee(s)..

By facsimile, I transmitted such documents from Juneau, Alaska, to the offices of the addressee(s).

By email, I transmitted such documents from Juneau, Alaska, to the email address of the addressee(s).

By electronic service through the court of record's electronic service system.,.

(State) I declare under penalty of perjury under the laws of the State of Alaska that the foregoing is true and correct.

1 (Federal) I declare that I am employed in the office of a member of the Bar of
this Court, at whose direction the service was made.

2 Executed on November 8, 2006 at Juneau, Alaska..

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